

O'Hara

100961  
3.1.85  
5A

*Stephen Navaretta*  
*Attorney-At-Law*

*13th Floor Seattle Tower*  
*1218 Third Avenue*  
*Seattle, Washington 98101*

March 1, 1985

D. Henry Elsen  
Assistant Regional Counsel  
Environmental Protection Agency  
1200 Sixth Avenue  
Seattle, WA 98101

Re: ARRCOM, INC., DREXLER ENTERPRISES, INC., et al.

Dear Mr. Elsen:

The most recent order of Judge Yost mandating a status report on the pending ARRCOM litigation provides me an opportunity to renew the request made at the Brown deposition to let Mr. Bingham off the extremely unfair hook upon which he has been snared these many months.

As your own witness pointed out, Mr. Bingham has been completely forthright and cooperative. He only possessed a mere security interest in the property in Rathdrum in connection with a sale/leaseback deal which was nothing more than a loan to Mr. Drexler's enterprises. Further, as Brown admitted, Mr. Bingham was not involved in the operation of the site nor did he create the hazards on the site.

RCRA s 7003 actions are equitable in nature and are not all or nothing propositions. Even in the light of statutes that, at first blush appear to impose blind liability, the courts have found that the broad equitable nature of the remedies involved militate for the application of equitable principles in the administration and enforcement of such statutes. See Weinberger v. Romelo-Barcello, 12 E.L.R. 20538 (U.S. April 27, 1982); U.S. v. Price, 608 F.2d 204 (3d Cir. 1982); U.S. v. Solvents Recovery Service of New England, Inc., 496 F. Supp. 1127 (D. Conn. 1980).

The tragic quagmire in which Mr. Bingham already finds himself reflects enormous financial loss and thoroughly rebuts any contention that he has gained in any way from his involvement in Rathdrum. The lack of sophistication in Mr. Bingham's dealings with Drexler are obvious. The government will serve no public purpose in cleaning out the only honest pocket in the entire cast of characters in this scenario.

RECEIVED  
MAR 5 1985  
WASTE MANAGEMENT BRANCH

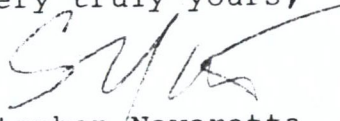
*Member, Washington State and Florida Bars*

USEPA RCRA  
  
3009343

D. Henry Elsen  
March 1, 1985  
Page Two

Mr. Bingham and I have trusted the E.P.A. and the government and have cooperated with you in the firm belief that, in the end, justice and equity would be done. Now is the time to justify that trust and that belief and grant Mr. Bingham quitable relief in the form of dismissal.

Very truly yours,



Stephen Navaretta

SN/mjn

RECEIVED  
MAR 4 1985

OFFICE OF REGIONAL COUNSEL  
EPA - REGION X